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Attorneys for Valero Refining Company-California

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION,

-and-

PACIFIC GAS & ELECTRIC COMPANY,

Debtors.

Affects PG& Corporation
 Affects Pacific Gas and Electric Company
 Affects both Debtors

* *All papers shall be filed in the Lead Case, No. 19-30088 (DM).*

Case No.: 19-30088-DM

Chapter 11

**STIPULATION BETWEEN DEBTOR
PACIFIC GAS AND ELECTRIC
COMPANY AND MOVANT VALERO
REFINING COMPANY-CALIFORNIA
FOR LIMITED RELIEF FROM THE
AUTOMATIC STAY AND LIMITED
PRESERVATION OF JURY TRIAL
RIGHTS**

[Relates to Docket No. 315]

[No Hearing Requested]

Date: September 10, 2019

Time: 9:30 a.m.

Place: Courtroom 17

450 Golden Gate Avenue, 16th Floor
San Francisco, California

Judge: Hon. Dennis Montali

This stipulation (the “Stipulation”) is entered into by Pacific Gas and Electric Company (the “Utility” or the “Debtor”), as debtor and debtor in possession, on the one hand, and Valero Refining Company-California (“Valero”) on the other. The Debtor and Valero are referred to in this Stipulation collectively as the “Parties,” and each as a “Party.” The Parties hereby stipulate and agree as follows:

RECITALS

A. On February 5, 2019, Valero filed its Motion for Relief from Stay by Valero Refining Company-California [Docket No. 315] (the “Motion”).

B. Valero seeks relief from the automatic stay to allow the completion of pretrial proceedings, trial, post-trial motions and any appellate proceedings in or in connection with VALERO REFINING COMPANY-CALIFORNIA, a Delaware corporation v. PACIFIC GAS & ELECTRIC COMPANY, a California corporation, pending as Case No. 2:17-cv-01350-TLN-EFB in United States District Court for the Eastern District of California before the Honorable Troy L. Nunley, United States District Judge (the “District Court Action”).

C. The District Court Action arises out of an incident on May 5, 2017 in which Valero alleges, and the Utility denies, that the Utility breached its duties, contractual and otherwise, resulting in a complete power outage to Valero's Benicia refinery.

D. The District Court Action was commenced on June 30, 2017. PG&E filed its answer and demand for jury trial on October 23, 2017. There are no counterclaims or crossclaims against third parties. The District Court set the case for jury trial for June 3, 2019.

E. The Debtor and its parent, PG&E Corporation (collectively the “Debtors”) filed these Chapter 11 Cases on January 29, 2019 (the “Petition Date”). The District Court Action and the jury trial, set for June 3, 2019, were stayed.

F. On July 1, 2019, the Court entered an order (the “Bar Date Order”) establishing October 21, 2019 at 5:00 p.m. (Prevailing Pacific Time) as the bar date (the “Bar Date”) for certain parties, including Valero, to file a proof of claim (“Proof of Claim”) in respect of a prepetition claim against the Debtor, including claims asserted by Valero in the District Court Action arising before the Petition Date.

G. The Parties have agreed to participate in a mediation before Kenneth D. Gack of JAMS in San Francisco on October 22, 2019 (the “Mediation”).

**NOW, THEREFORE, IT HEREBY IS STIPULATED AND AGREED BY AND
BETWEEN THE PARTIES, THROUGH THEIR UNDERSIGNED COUNSEL, AND THE
PARTIES JOINTLY REQUEST THE COURT TO ORDER, THAT:**

1 1. This Stipulation shall be effective upon entry of an order by the Court approving it,
2 which shall resolve the Motion.

3 2. To the extent that the automatic stay applies to the Mediation or the participation by
4 Valero or the Utility in the Mediation or any continuation thereof, the automatic stay is modified to
5 permit the Mediation and the continued participation by Valero and the Utility therein.

6 3. The filing by Valero of a Proof of Claim in this Case shall not operate to cause a
7 waiver of Valero's or the Utility's right to a jury trial in the District Court Action, which right shall
8 be preserved to the fullest extent of the law.

9 4. In the event that the Mediation results in a settlement of all claims in the District
10 Court Action, the Utility shall file and set for hearing a motion to approve the settlement at the
11 earliest reasonable date consistent with the Court's calendar for motions in the Case.

12 5. In the event that the Mediation fails to result in a settlement of all claims in the
13 District Court Action, Valero's Motion shall be deemed granted without further order of the Court to
14 allow the completion of pretrial proceedings, trial, post-trial motions and any appellate proceedings
15 in or in connection with the District Court Action, with waiver of any stay under Federal Rule of
16 Bankruptcy Procedure 4001(a)(3), effective on November 25, 2019, which date may be extended by
17 written agreement of the Parties without further order of the Court.

18 6. The hearing on the Motion set for September 10, 2019, shall be taken off calendar.

19 7. Nothing in this Stipulation shall affect any estimation of or procedure to estimate
20 Valero's claim for purposes of voting on any proposed plan of reorganization in this case.

21 8. In all other respects the automatic stay shall remain in effect and nothing in this
22 stipulation (specifically including without limitation paragraph 5 hereof) shall permit Valero to
23 enforce against the Debtor, its estate or its property any judgment it may obtain in its favor in the
24 District Court Action.

25 9. Nothing herein shall be deemed to modify or excuse compliance with the
26 requirements or obligations of Valero to timely file a proof of claim in the Debtors' chapter 11 cases
27 in accordance with any order of this Court governing the filing of claims.

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1 Dated: September 5, 2019

2 KELLER & BENVENUTTI LLP

TRODELLA & LAPPING LLP

4 By: /s/ Peter J. Benvenutti
5 Peter J. Benvenutti
6 Attorneys for Debtors
7 And Debtors in Possession

By: /s/ Richard A. Lapping
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